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personality and also the influence of his official position. I trust also that it will meet with the endorsement of our Congress. We know that it receives the encouragement of Sir Edward Grey, the Minister of Foreign Affairs of England.

Looking around me here, I see that we have many distinguished men sent upon the same glorious mission. They come to uphold the hands of the President in this mission just as the people of Israel upheld the arms of Moses when he addressed them.

I pray that all you gentlemen who are participating in this glorious work will deserve to receive that title bestowed upon the friends of peace by the Prince of Peace, "Blessed are the peacemakers, for they shall be called the children of God."

The Result of the Arbitration Treaty.

By Andrew Carnegie.

From the Contemporary Review, August, 1911.

As long as nations retain the right to determine for themselves what pertains to their honor or vital interests, there is and can be no security against war, and, what is far more destructive than war itself, the constant, ever-pressing danger of war. It is this, and not actual war, which ominously overhangs the world as a cloud threatening to burst and devastate the earth. Generations of men live and die in our age during prolonged years of peace, but from the cradle to the grave not one escapes the ever-present, appalling danger of war. In our day one nation prepares against this ever-threatening danger, and other nations inevitably follow, every nation truly proclaiming that its action is solely defensive—as indeed we may justly believe it is intended to be—and yet the result is that preparation begets preparation, thus increasing the danger it is fondly expected to lessen. Last year our republic spent seventy per cent of its total revenue upon war and war pensions, and yet it is of all the great nations the least desirous of war, being without territorial ambitions, and earnestly desirous of living at peace with all. Britain's cost per head was even greater.

It was this alarming condition of affairs which drove President Taft to reconsider seriously the problem of peaceful arbitration, which had so far failed. He had no difficulty in discovering the cause, and the sole cause, of this, and therefore stated that all questions should be submitted to arbitration.

The complete result of our arbitration treaty we fondly but undoubtingly anticipate may require time. Possibly the next generation may be the first fully to realize its fruition; but come it must, even if our race alone be left at present to set the example. But let us enlarge our view and assume for the moment that the three other nations with which our republic is today negotiating in Washington, at their request, should decide to join us in the treaty which provides that all disputes be peaceably settled. We should then have not only the English-speaking race, but the entire Teutonic race as well, Germany being the root and our two lands the branches; in addition, France and Holland, one once the foremost power upon the land and the other once foremost upon the sea.

Imagine these lands unitedly informing the world of

their brotherly and peaceful action, and expressing the ardent hope that their neighbors shall consider the propriety of joining in the movement for international peace! That some of the other powers would join is certain. Let us suppose that a dispute arose between two powers, and war was feared, the friendly appeal of the peaceful powers to the contestants to arbitrate could scarcely be resisted; but if it were, the peaceful powers might then intimate that as all nations are concerned as partners in the peace of the world, they have rights which should not be ignored, and, if they were, it might be found necessary for them to declare non-intercourse with the offender who disturbed that peace.

The World's Two Vicious Circles.

By Professor William I. Hull.

The fallacy of *petitio principii*, familiarly known as "begging the question" or "arguing in a circle," is so frequently met with in logic and in real life that one might suppose that responsible statesmen would have long ago learned to avoid it both in their mental processes and in their political activities. But, like Banquo's ghost, it is difficult to lay, and it still haunts the world in this twentieth century of enlightenment and frightens it into particularly pernicious sins of omission and commission.

These sins are most flagrant, perhaps, when the world attempts to regulate its international relations. For example, each nation argues that it can protect its own peace only or best by increasing its armaments; and accordingly each of the circle of forty-odd nations is feverishly engaged in the edifying task of out-arming, to the best of its abilities, each of the others. Great Britain, assured that her own peace and the peace of the world is threatened by the menace of the Teuton, lays down the keels of two dreadnaughts; Germany, perceiving the portentous shadow of the advancing Briton, lays down the keels of two super-dreadnaughts. This gives to Great Britain a realizing sense of the inadequacy of her twenty-eight miles of warships, and in order to avoid another panic such as the German super-dreadnaughts caused her, she increases her per capita naval expenditures within ten years by 43 per cent; Germany "goes her several better," and increases her per capita naval expenditures within ten years by 119 per cent. Some American "statesmen" dream of the menace of Germany in South America or of Japan upon the Pacific, and the United States, frightened by such nightmares, increases its per capita naval expenditures within ten years by 64 per cent. Japan, emulating its Occidental school teachers in their fallacious logic, and postulating the impossibility of having too much of a good thing, increases its per capita naval expenditures within ten years by 137 per cent. The other four "great powers," caught up in the same frenzy of fallacious logic and futile competition, convert their national resources into dreadnaughts, and all eight together expend upon their navies within ten years the almost unimaginable sum of \$5,600,000,000! (These figures are taken from the British Admiralty's "White Paper" of October, 1911.)

Thus the vicious circle is formed; the small members of the family of nations join in the frenzied competi-

tion for big, bigger, biggest armaments, and, like the serpents of an African jungle, each struggles and strains to raise its head high above the others. But how much like a will-o'-the-wisp is the peace based upon such a chain of reasoning is shown by the continually precarious and fragile character of that peace, while above it broods the shadow of a menacing Armageddon unrivalled in history or prophecy. It may well be said in solemn truth of the world's incessant building of armaments in its search for an assured peace:

Ye build and ye build,
But ye enter not in!
Like the tribes whom the desert
Devoured in their sin.

So much for the great sin of commission in the international relations of our time. But perhaps even worse than this barracks and warships attempt to preserve the peace between nations, has been the refusal to adopt treaties providing for the submission of all international disputes to arbitral tribunals. This great sin of omission is also based on the argument of the vicious circle. International arbitration is a good thing, and the only way to preserve it at all is to refuse to arbitrate "certain" classes of disputes which are "impossible" of arbitration. Thus is the great question begged. It was begged in the same way seven centuries ago when the champions of trial by battle vociferated the "impossibility" of submitting "questions of honor" to trial by jury. It was begged in the same way one century ago when the Hamiltons and Burrs of the period asserted the "impossibility" of defying in "certain" cases the "code of honor." It is begged in the same way today when murderers oppose "the unwritten law" to the statute law of the civilized world, and when the lovers of the "big stick" deny that justice can be secured in "certain cases" before international tribunals.

"I cannot arbitrate a slap on my wife's cheek!" cries one strident voice; "therefore the United States cannot agree to arbitrate all its disputes with other nations." My wife will conduct herself as most modest women do, and not get her cheeks slapped; or, the unprovoked slapper shall be sent to jail: such might seem to be obvious ways out of this not very intricate logical tangle.

"Uncle Sam cannot stand by and see Germany gobble Venezuela!" shrieks another chorus of voices; "therefore the United States cannot agree to arbitrate all its disputes with other nations." But only a few years ago Uncle Sam threatened to fight "at the drop of the hat" if Great Britain should refuse to arbitrate her claim to a part of Venezuela. It would seem that if we are willing to *fight* to enforce the arbitration of questions arising under the Monroe Doctrine, we might be willing to accept the solemn promise of other nations to submit such questions to arbitration.

"There are certain questions which cannot possibly be submitted to arbitration; therefore we cannot accept the decision of impartial judges—even of those whom we help to select ourselves—as to the possibility of arbitrating disputes." So runs the *petitio principii*. Why not be entirely honest and declare that we ourselves prefer to be the judge in all cases in which we are concerned; or, shamed out of that position by a growing sense of international fair play, declare that if we cannot be the judge, we will at all events be the grand jury

and insist on the right of presenting for trial every case in which we are concerned?

"No sovereign State shall be brought into court without its own consent." Such is the international application by the United States Senate of the Eleventh Amendment to the Constitution of the United States. But it was one of the prime objects of that immortal Constitution to surround the exercise of *sovereignty* by the strongest barriers of *justice*; and it was the United States Senate which was made the special guardian of those barriers and the special defender of justice against an overweening sovereignty. The Senate, by opposing the adoption of the treaties of arbitration, is repudiating the reason for its existence and stultifying the most noteworthy achievements of its career, so far as our own national government is concerned, while in regard to other nations it is reenacting the rôle played in 1787-1789 by the ultra-conservative opponents of the formation of the Union.

"For the Senate to permit some other body to decide on the arbitrable character of international disputes would be to ignore a prime duty imposed upon it by the Constitution." Such is another prop of its *non possumus*. But if it ratifies a general treaty which submits all arbitrable questions to arbitration, it thereby sanctions the creation of commissions appointed to decide on such arbitrability, and thus performs its constitutional duty by both the general treaty and the application of it: for surely this is a case of the whole comprising all of the parts, of the general treaty comprising the several *compromis*. Moreover, the constitutional duty of the Senate in relation to treaties is neither judicial nor executive, but legislative. Once it has performed its duty in placing a treaty upon the statute book of the land, it has no further concern, except as a branch of the legislative department, with either its interpretation or its execution.

Of course it is an unprecedented step which the President is asking the Senate and the country to take; and precisely therein lies its greatness. In this year of grace, 1911, our nation has been summoned by its great leader to lead the world in another "Present Crisis," and to this crisis also may be applied the poet's deathless words of a half century ago:

"At the birth of each new Era, with a recognizing start,
Nation wildly looks at nation, standing with mute lips
apart,
And glad Truth's yet mightier man-child leaps beneath the
Future's heart.

For mankind are one in spirit, and an instinct bears
along,
'Round the earth's electric circle, the swift flash of right
or wrong;
Whether conscious or unconscious, yet Humanity's vast
frame
Through its ocean-sundered fibres feels the gush of joy or
shame:
In the gain or loss of one race all the rest have equal
claim."

Under the inspiration of such a summons as comes from our present leader and our past history, shall we hesitate, oh, my people, until "the doom from its worn sandals shakes the dust against our land?" or shall we, rather, turn our backs definitely upon the bloody fallacies of the past and our faces toward the great light

which illumines all the future—discard the engine of warfare and give our unquestioning loyalty to the efficacy and right of *Justice*?

SWARTHMORE COLLEGE, *November 4, 1911.*

The Constitutional Objection to the Treaties Entirely Untenable.

By Hon. Philander C. Knox, Secretary of State.

From the Address Delivered by Mr. Knox Before the American Society for Judicial Settlement of International Disputes, at Cincinnati, Ohio, November 8, 1911.

The constitutional objection applied to these treaties is that it is not within the constitutional power of the Senate to leave to any other body the right to decide whether a given difference is the kind of difference which, under a treaty, the Government has agreed to submit to arbitration. If this objection is sound it applies with as much if not greater force to the President as to the Senate, and inasmuch as the President, as the executive arm of the Government, is to be bound by these treaties to enter into agreements, subject to the Senate's approval, to arbitrate differences found to be arbitrable by the commission it is necessary to consider the committee's objection in its relation to this obligation.

Unless the constitutional power to agree by treaty to arbitrate future differences does not exist at all or only exists as to certain kinds of differences this proposition is not sound. If the treaty-making power can constitutionally bind the Government to arbitrate any kind of difference that may arise in the future between us and another country it can bind it to arbitrate any other kind or kinds of difference or all differences, including a difference that may arise upon the construction of the treaty itself. If the power exists at all the extent of its exercise is a matter of discretion. We have time and again bound ourselves to arbitrate all differences except those affecting vital interests and national honor, providing only, as in the pending treaties, that the arbitration must be under special agreement to be made by the President and approved by the Senate. There are many such treaties now in force. It is evident, therefore, that there is no lack of power to make treaties that bind us to arbitrate questions that may arise; it is only a question as to the expediency and extent of the exercise of a conceded and frequently exercised power.

Assuming that the treaty-making power—that is, the President, subject to the approval of the Senate—may constitutionally enter into a treaty to arbitrate all differences, it clearly would have the power to submit to arbitration the question as to whether a specific difference fell within the class of differences that it was agreed to arbitrate. The agreement to arbitrate the question as to whether a specific difference is arbitrable within the terms of such a treaty is a less comprehensive exercise of the treaty-making power than would be the agreement to arbitrate all differences. The question, therefore, is one of expediency and not of power, and, stated in its simplest form and in the sense and to the extent that it is now involved, is this: Is it wise as

a matter of expediency to provide that in case the executive branches of two governments fail to agree as to whether a specific difference is within the terms of Article I that question should be referred to a commission for decision, so that if it is decided to be within the terms of the treaty the special agreement to arbitrate should be prepared and sent to the Senate for its approval, as it would have been if no question as to its arbitrability had arisen?

It surely must be clear to anyone who gives the question proper consideration that the power of the Senate is not taken away by these treaties. On the contrary, it is textually preserved and in the very language of existing treaties, which were approved by the Senate without objection.

Why did the Senate cause the withdrawal of the Hay-Durant treaty of 1904, which provided that the special agreements of arbitration should be made by the President alone, by amending so as to require a treaty in each case? Manifestly because the Senate believed that it would otherwise surrender a constitutional power. Why in 1908 did the Senate approve, without opposition, the same treaties with the provision that the special agreements should be subject to its advice and consent? Manifestly because the Senate believed that it thereby preserved its constitutional power. How, then, can it be claimed that this power is surrendered in the pending treaties which reserve to the Senate this power in the identical language which the Senate approved without opposition in 1908?

The Constitution of the United States makes the Senate a part of the treaty-making power, and no treaty between the United States and a foreign country is valid without its approval. In Great Britain the treaty-making power rests in the Crown, but, as a matter of domestic policy, Great Britain does not make important treaties affecting the interests of her self-governing colonies without their approval. In France certain classes of treaties are subject to legislative approval.

Therefore, although in the pending treaties the executive branches of the governments concerned agree to be bound by the decision of the commission as to the arbitrability of a question upon which the executive branches do not agree, this decision is subject to the approval of the self-governing colonies of Great Britain, if the question affects them, and to the approval of the Senate of the United States, and, in certain cases, the Senate and Chamber of Deputies of France, to whom the right of approval is expressly reserved in each case.

Every agreement to arbitrate must go to the Senate for its approval. There can be no arbitration without its approval. An agreement to arbitrate goes to the Senate for its approval either because the executive branches of the two countries concerned in the difference agree that the difference is one for arbitration or because, failing so to agree, the commission of inquiry report that it is such a difference.

How can the Senate's power over the agreement be less if it goes to the Senate after the commission's report that it presents an arbitrable question than if it had gone there because of the opinion of the executive branches of both governments to the same effect?

If the two governments agree that the difference is arbitrable they make an agreement to arbitrate it and it is sent to the Senate for its approval. If the two